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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,753	12/11/2001	Gholam-Reza Zadno-Azizi	VGEN.009A	1465

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EXAMINER

WILLSE, DAVID H

ART UNIT PAPER NUMBER

3738

DATE MAILED: 09/16/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/017,753

Applicant(s)

ZADNO-AZIZI ET AL.

Examiner

Dave Willse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9, 12.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turley, US 4,892,543, which discloses an anterior portion 44 comprising an anterior viewing element 60 and 84 (Figure 2) and a pair of anterior translation members (Figure 3), each of which is attached to first and second spaced attachment areas (via the spaced fingers 70 and 72) on the periphery 64. Each attachment area width in a direction parallel to the periphery 64 (Figure 3) appears to be approximately three times greater than the corresponding thickness depicted in Figures 2 and 6, and the ratio of width to thickness being greater than or equal to three would have been obvious from the range of materials listed at column 3, lines 13-18, and from the need to stabilize the lens and eliminate decentration (column 2, lines 5-8) yet provide for relative mobility (column 1, lines 56-58). Regarding claim 3, according to the Applicant's disclosure (page 13, paragraph 0084; Figure 7), a single biasing element (e.g., 120) can encompass or include separate, distinct

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translation members (e.g., 122 and 124); therefore, in the Turley invention, the posterior portion 42 includes a posterior viewing element 46 and a posterior biasing element that includes *both* flexible arms 54 and hence both spaced attachment areas. The width of arm 54 shown in Figure 3 is clearly more than three times greater than the thickness of arm 54 shown in Figures 2 and 6. Regarding claim 4, under an alternative interpretation, the entire lens 40 may be viewed as “posterior” because the lens elements 84 and 46 are maintained in a generally posterior position relative to the ciliary muscle (Figures 2 and 6; column 4, lines 45-48).

Claims 1 and 4 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Cumming, US 6,197,059 B1: Figures 66 and 67. Regarding claim 1, the lens is “anterior” relative to the posterior capsule, for example. Regarding claim 4, the lens is “posterior” with respect to the iris, for example.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green, US 6,558,420 B2: Figures 10 and 11. An attachment area ratio of width to thickness being greater than or equal to three would have been obvious from the preference specified at column 6, lines 22-27, and from the optional stiffener element 60 to allow for thinner haptic designs (column 7, lines 59-63).

Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Israel, WO 99/03427: Figures 5A and 5B; page 12, second full paragraph; page 13, last full paragraph; page 14, third full paragraph.

The Applicant’s remarks are adequately addressed in the grounds of rejection above. The new grounds of rejection were necessitated by the added claims and by the added limitation pertaining to the spaced attachment areas associated with the translation member. Therefore:

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THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Willse whose telephone number is (703) 308-2903. The examiner can normally be reached Monday through Thursday and often on Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott, can be reached on (703) 308-2111. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.



Dave Willse
Primary Examiner
Art Unit 3738